

**REMARKS**

The Office Action mailed July 7, 2007, has been received and reviewed. Claims 1-28 are currently pending in the application. Claims 1-28 stand rejected. Applicant has amended claim 27, and respectfully requests reconsideration of the application as presented herein.

**Claim Rejections under 35 U.S.C. § 103**

Claims 1-28 were rejected as being unpatentable over U.S. Pat. Pub. No. 2003/0017833 to Forrester ("Forrester") in view of U.S. Patent 6,985,712 to Yamakawa et al ("Yamakawa"). Applicant respectfully traverses this rejection, as hereinafter set forth.

To establish a *prima facie* case of obviousness the prior art reference (or references when combined) **must teach or suggest all the claim limitations**. *In re Royka*, 490 F.2d 981, 985 (CCPA 1974); *see also* MPEP § 2143.03. Additionally, there must be "a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1742, 167 L.Ed.2d 705, 75 USLW 4289, 82 U.S.P.Q.2d 1385 (2007). Finally, to establish a *prima facie* case of obviousness there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986). Furthermore, the reason that would have prompted the combination and the reasonable expectation of success must be found in the prior art, common knowledge, or the nature of the problem itself, and not based on the Applicant's disclosure. *DyStar Textilfarben GmbH & Co. Deutschland KG v. C. H. Patrick Co.*, 464 F.3d 1356, 1367 (Fed. Cir. 2006); MPEP § 2144. Underlying the obvious determination is the fact that statutorily prohibited hindsight cannot be used. *KSR*, 127 S.Ct. at 1742; *DyStar*, 464 F.3d at 1367.

The 35 U.S.C. § 103(a) obviousness rejections of claims 1-28 are improper because the elements for a *prima facie* case of obviousness are not met. Specifically, the rejection fails to meet the criterion that the prior art references must teach or suggest all the claims limitations.

Regarding independent claim 1 and claims 2-21 depending therefrom, independent claim 22 and claims 23, 24 depending therefrom, independent claim 25 and claim 26 depending therefrom, and independent claims 27 and 28, Applicant's independent claims include claim limitations not taught or suggested in the cited references.

Applicant's independent claims recite, in part:

1. A wireless device comprising: ... *a first receive path for a first wireless system ... and ... a second receive path for the first wireless system ..., wherein the first and second receive paths for the first wireless system are for two frequency bands* .... (Emphasis added.)
22. A device ... comprising: ... *a first receive path for a first wireless system ... and ... a second receive path for the first wireless system ..., wherein the first and second receive paths for the first wireless system are for two frequency bands* .... (Emphasis added.)
25. An apparatus comprising: ... *a first receive path for a first wireless system ... and ... a second receive path for the first wireless system ..., wherein the first and second receive paths for the first wireless system are for two frequency bands* .... (Emphasis added.)
27. A wireless device comprising: ... *a first receive path for a first wireless system ... and ... a second receive path for the first wireless system ..., wherein the first and second receive paths for the first wireless system are for two frequency bands* .... (Emphasis added.)
28. A method of operating a wireless device, comprising: ... *a first receive path for a first wireless system ... and ... a second receive path for the first wireless system ..., wherein the first and second receive paths for the first wireless system are for two frequency bands* .... (Emphasis added.)

Applicant respectfully asserts that neither Forrester nor Yamakawa, either individually or in any proper combination, teach or suggest Applicant's invention as presently claimed in Applicant's independent claims.

The Office Action alleges:

Regarding claims 1, 4-6, 9 and 18-19, Forrester discloses ... *a first receive path for a first wireless system* (dual-band wireless system i.e. *cellular CDMA/FM*) and ... *a second receive path for the first wireless system (cellular CDMA/FM system)* ..., wherein *the first and second receiver paths for the first wireless system are for two frequency bands (cellular CDMA band* is at approximately 800 MHz and *USFM band*, regulated by the FCC, extends from 87.9 MHz-107.9MHz) .... (Office Action, p. 2; emphasis added).

Claims 22-27 are rejected for the same reasons as set forth in claims 1, 4-6, 9 and 18-19. (Office Action, p. 4).

Claim 28 is rejected for the same reasons as set forth in claim 1, as method. (Office Action, p. 4).

Yamakawa suggests an antenna switch ... comprising a SP3T switch .... (Office Action, p. 3).

Applicant respectfully disagrees with the characterization of the teachings of Forrester. In the Office Action, the Examiner correlates Applicant's claimed "the two frequency bands" with Forrester's teachings of a "cellular CDMA band" and an Examiner-fabricated "teaching" of a "USFM *band*". Forrester does not teach of a "USFM band" as alleged.

First regarding the "cellular CDMA band," the Office Action alleges in Fig. 5 of Forrester that Applicant's "first receiver path" is taught by Forrester's LNA 290/cellular band filter 310. While the "cellular band" signal is processed through Forrester's "CDMA mixer 330" and Forrester's "FM mixer 340," Forrester only teaches of a "cellular band" that is processed therethrough. Furthermore, nowhere within Forrester is an "FM band" ever taught or suggested. Upon closer inspection of the precise teachings of Forrester, it appears that Forrester identifies "Frequency Modulated (FM) *components*" in the "cellular band" and filters the FM components out of the "cellular band" through an "FM mixer 340" and an "FM IF filter 370." Such identification of FM components in the "cellular band" would allow the "main IF demodulator 380" to better identify the baseband components in the "cellular band."

Specifically, it is clearly the Office Action, and not Forrester, that "teaches" that a "USFM band, regulated by the FCC, extends from 87.9MHz-107.9MHz". Again, Forrester merely teaches that Frequency Modulated (FM) components exist in the "cellular band" and not of any "FM band" as alleged in the Office Action. In fact, Forrester teaches the "FM IF filter 370" is used for filtering FM components at "approximately *183.6 MHz*" which is clearly outside of the Office Action's, and not Forrester's, "teachings" of the alleged "FM band." (Forrester, para. [0040]). Furthermore, throughout the entire teachings of Forrester, Forrester only associates the term "*band*" with "cellular *band*," "PCS *band*" and "GPS *band*" and each of those "bands" as taught by Forrester is clearly associated with *independent* and distinct "receive paths."

Therefore, since neither Forrester nor Yamkawa teach or suggest Applicant's claimed invention including "*a first receive path for a first wireless system ... and ... a second receive path for the first wireless system ..., wherein the first and second receive paths for the first wireless system are for two frequency bands*", these references, either individually or in any

proper combination, cannot render obvious, under 35 U.S.C. §103, Applicant's invention as presently claimed in independent claims 1, 22, 25, 27 and 28. Accordingly, Applicant respectfully requests the rejection of independent claims 1, 22, 25, 27 and 28.

The nonobviousness of independent claim 1 precludes a rejection of claims 2-21 which depend therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicant requests that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to independent claim 1 and claims 2-21 which depend therefrom.

The nonobviousness of independent claim 22 precludes a rejection of claims 23 and 24 which depend therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicant requests that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to independent claim 22 and claims 23 and 24 which depend therefrom.

The nonobviousness of independent claim 25 precludes a rejection of claim 26 which depends therefrom because a dependent claim is obvious only if the independent claim from which it depends is obvious. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988), *see also* MPEP § 2143.03. Therefore, Applicant requests that the Examiner withdraw the 35 U.S.C. § 103(a) obviousness rejection to independent claim 25 and claim 26 which depends therefrom.

**CONCLUSION**

Claims 1-28 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Examiner determine that additional issues remain which might be resolved by a telephone conference, the Examiner is respectfully invited to contact Applicant's undersigned attorney.

Respectfully submitted,

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